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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,756	01/17/2002	Mark Leonard Bonko	DN1999165USA	8345

7590

08/30/2004

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EXAMINER

MAKI, STEVEN D

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 08/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/031,756

Applicant(s)

BONKO, MARK LEONARD

Examiner

Steven D. Maki

Art Unit

1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: issue of new matter and new issues: see advisory action attachment.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see advisory action attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-14.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: Notice of Non-Compliant Amendment

Advisory Action Attachment

new issues

The issue of new matter is adding --said tread has a flattened tread profile-- to the independent claims (e.g. claim 1).

The new issues include (1) adding --said tread has a flattened tread profile-- to the independent claims (e.g. claim 1) and (2) changing "tire of claim 1 wherein the entire sidewalls are substantially flat" in claim 5 to --tire of claim 3 wherein the sidewalls located between said annular shoulder buttress and an annular projection are substantially flat--.

remarks

With respect to Great Britain '945, applicant argues that Great Britain '945 is a passenger tire because (1) "farm tires were not invented until 1934" and (2) Great Britain '945 is dated 1918. This argument is not persuasive since there is no evidence of record showing "farm tires were not invented until 1934". See ATTORNEY ARGUMENTS CANNOT TAKE THE PLACE OF EVIDENCE in MPEP 716.01(b), page 700-256, Rev. 2 May 2004.

With respect to Great Britain '945, applicant argues that one of ordinary skill in the art would not be motivated to utilize the teaching of a highly cambered passenger tire in designing a farm tire because it would adversely impact the soil. First: This argument is not commensurate in scope with the claims and is therefore not persuasive since none of the claims require a farm tire. Second: There is no evidence of record showing the asserted adverse impact on soil. Third: Great Britain '945 is not being

Art Unit: 1733

modified with a "highly cambered" teaching. Fourth and more importantly: There is ample suggestion to use bias plies in Great Britain '945's tire since Great Britain '945 suggests forming the tire in any well known manner and Rubber Technology teaches that it is well known to form tires using bias plies. Applicant has failed to provide any convincing argument as to why it would have been non-obvious to use bias plies for the carcass of Great Britain '945's tire.

With respect to Brunner, applicant argues that one skilled in the art would not be motivated to make the tread width greater than the section width of the tire because it would be in contradiction to the object or main purpose of the invention. This argument is not persuasive. Great Britain '945's suggestion to protect the sidewalls of the tire from injury using a wide tread is consistent with Brunner because Brunner teaches that ribs 18 which project outwardly from the side of the tire are provided to prevent weakening of the side walls by abrasion. Hence, both Great Britain '945 and Brunner are concerned with protecting the tire sidewall. Furthermore, Great Britain '945's teaching to use a wide tread is consistent with Brunner's teaching to carry load because, as can be seen from a cursory review of figure 2 of Great Britain '945, the wide tread permits the outer ribs to be in radial alignment with the side walls so that they may carry load.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

Art Unit: 1733

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki
August 26, 2004


STEVEN D. MAKI
PRIMARY EXAMINER
~~GROUP 1300~~
AU 1733 8-26-04